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SUBJECT: Parliament Adjourns With Passage of Anti-Corruption Bills

REF: KATHMANDU 555

¶1. (SBU) Summary. Parliament adjourned April 17 after passing four anti-corruption bills. Legislators will return in May for a budget session and to consider further extending the state of emergency in effect since November 2001. The four new anti-corruption measures provide for punishments for taking bribes and other public malfeasance; the means to freeze accounts of officials accused of corruption; the establishment of a special court to prosecute corruption cases; and the impeachment of members of constitutional bodies. Reformers welcomed the new measures, but warned of obstacles to implementation and vague language that could handicap the measures' effectiveness. End Summary.

Nepal's Parliament Adjourns

¶2. (SBU) Nepal's Parliament adjourned its winter session April 17, its last order of business the passage of four bills targeted against public corruption. Parliament will re-convene for a budget session in mid-May, in time for legislators to consider an extension of the state of emergency. [Note: The state of emergency expires May 26, and Prime Minister Sher Bahadur Deuba has indicated that he will ask Parliament to extend it. Originally declared November 26, 2001, the emergency was extended by three months in late February by vote of Parliament. The Parliament Secretariat told us that this year the government had decided to move up by one month Parliament's annual budget session, which usually convenes in June. This will obviate the need to convene a special session to extend the emergency. End Note.]

Anti-Corruption Bill Locus of New Measures

¶3. (U) At the heart of the package of four new public corruption measures is the "Anti-Corruption Bill," which provides for punishments for accepting or giving bribes and acquiring property with illegally-acquired funds. Jail terms range from three months for accepting a bribe worth Nepali Rupees (NRS.) 25 thousand (USD 325) to up to ten years for a bribe of over NRS. 10 million (USD 130,000). The bill would forbid civil servants from taking "donations" or gifts related to work without permission, keeping commissions or other benefits gained in the course of procuring or leasing goods and services, and inflicting loss or damage to public property.

CIAA: Power to Freeze Accounts

¶4. (U) A second bill grants additional powers to the Commission for the Investigation of Abuse of Authority (CIAA). The CIAA would have the power to issue orders to freeze bank accounts belonging to individuals under investigation for corruption, and to seize property acquired through illegal means even though the property is in someone else's name. Public officials would be required to prepare and submit financial disclosure statements or face penalties. The statements would be consulted in the future to gauge whether an official has acquired property illegally or had been living beyond his means.

Another Special Court

¶5. (U) The fourth anti-corruption measure provides for the establishment of a Special Court to hear corruption cases. [Note: Nepal's legislature has already mandated special courts to hear cases related to narcotics trafficking, trafficking in persons (TIP), and public security. These special courts are located in Kathmandu, but take cases from all over the country. NGOs working on TIP issues have complained that many victims of trafficking cannot afford the expense of traveling to the capital to make their case, and for that reason some traffickers have escaped prosecution. End Note.] The Special Court can

freeze the assets and hold the passports of accused persons. Appeals from the Special Court go directly to the Supreme Court. [Note: Previously, corruption cases were first heard in Appellate Court. End Note.]

New Impeachment Mechanism

16. (U) An Impeachment Bill establishes a mechanism for Parliament to impeach officials of constitutional bodies for inefficiency, "bad character," or dishonesty. [Note: Constitutional bodies include the Election and Public Service Commissions as well as the Commission for the Investigation of Abuse of Authority (CIAA). Previously Parliament lacked the means to remove members of these bodies for cause. End Note.] The bill would require a vote of twenty-five percent of Parliament to commence an impeachment proceeding. A panel of three - two MPs (from different parties) and a legal expert - would then take statements and conduct an investigation before making a recommendation to the full house. The full chamber votes on the panel's recommendation, with a simple majority of MPs needed for impeachment.

New Measures Seen as Over-broad, but Amendments Fail

17. (SBU) A leading Nepalese businessman and member of Parliament's Upper House criticized the new measures in a discussion with Poloff. In part, problems with the bills resulted from the extraordinary treatment they were given. All four by-passed regular procedures and were pushed through the entire process in a single week, an unprecedented occurrence. Our contact explained that although the laws had a "high-sounding name," their scope was so broad as to render them meaningless. By expanding the definition of civil servants, the bills would make a crime of tipping a waiter in a restaurant partially owned by the government. His greatest fear, however, was that by expanding the powers of the CIAA, the new legislation would make that body even less effective than it has been. The Parliamentarian introduced amendments to redress these problems, and although the Upper House accepted the amendments, the Lower House voted them down.

Laws and Sausages

19. (SBU) The amendments failed in the Lower House after the ruling Nepali Congress Party (NCP) whip, who had a large part in pushing through the original, non-amended versions of the bills, took the Upper House amendments as a personal affront. While NCP members were working on a compromise to ease his wounded pride, opposition leader Madhav Nepal took the floor to fight the amendments. Nepal argued that after a multi-party consensus on fighting corruption had been forged in the Lower House, the Upper House had come along and substantially changed the legislation. Nepal proposed rejecting the amendments in toto, and in the face of resistance from the whip and the opposition party, the rest of the Lower House fell in line.

Implementation Uncertain

10. (SBU) Ruling party MPs praised the session's accomplishments, which also included new legislation on women's property rights (Reftel) and the establishment of commissions on women's and dalits' (lower caste) issues. Altogether sixteen bills - including the four anti-corruption measures - have been sent to the Palace and await formal Royal assent, required for a bill to become law under Nepal's Constitution. Observers commented that although the new measures are welcome, the test will come when the government attempts to implement them. This is especially true of the anti-corruption measures, the Amcit head of the local National Democratic Institute (NDI) related.

Comment

19. (SBU) Widely viewed as corrupt and unresponsive, Nepal's political leaders know they have to put their house in order. In this year's Parliamentary session they made a tentative effort in that direction. Although far from perfect, the new anti-corruption measures are a good start to rolling back a problem that affects both Nepal's economy and its ability to rally support for efforts to quell the Maoist insurgency. The best reason to celebrate may be that the quantity of legislation pushed through during this year's session of Parliament greatly exceeded the output last year - when opposition party leaders led a boycott to protest then-Prime Minister G.P. Koirala's alleged involvement in an airplane-leasing scandal. Anti-

corruption crusaders have committed to fighting for more and better legal and regulatory tools to press their cause, which they rightly view as central to the development of Nepal's young democracy.

MALINOWSKI